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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,882	03/21/2002	Manfred Schwab	ZAHFRI P409US	4976
20210	7590	11/25/2003	EXAMINER	
DAVIS & BUJOLD, P.L.L.C. FOURTH FLOOR 500 N. COMMERCIAL STREET MANCHESTER, NH 03101-1151			GIBSON, ERIC M	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Applicati n No.

10/088,882

Applicant(s)

SCHWAB ET AL.

Examiner

Eric M Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21, 23 and 27-30 is/are rejected.
- 7) ☒ Claim(s) 22 and 24-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Drawings***

1. The proposed drawing corrections were received on 9/22/2003. These drawing corrections are approved.

***Claim Rejections - 35 USC § 112***

2. The Examiner's rejection of now cancelled claims 11-20 in the previous Office Action (Paper No. 6) has been corrected in newly added claims 21-30 and satisfactorily explained in the reply filed 9/22/2003.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 21, 27, 28, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Krisher et al. (US004862363A).
  - a. As per claims 21 and 30, Krisher teaches a method of operating a voice activated transmission including issuing a voice command to a voice command input device (32, figure 1), converting the voice command to an electronic command signal (28, figure 1) and outputting the signal to a voice command converter device (27, figure 1) having a memory (44, figure 1), comparing the signal with a plurality of reference

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commands stored in the memory to determine a desired command (column 3, lines 44-47), forming a transmission control signal based on the desired command (column 3, lines 50-51), changing and executing a shift command to a new shift signal generated by the voice command (column 5, lines 60-64).

b. As per claim 27, Krisher teaches an easily accessible device for overriding the voice command (26, figure 1).

c. As per claim 28, Krisher teaches an inherent override capability in the system wherein the system requires a confirmation in a predetermined time period in order to carry out the shift (column 5, lines 55-57).

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krisher in view of Graf (US005396420A).

a. As per claim 23, Krisher teaches the invention as explained in the rejection of claim 21. Krisher does not teach special driving programs. Graf teaches a control unit for automatic transmissions in motor vehicles that includes a driver selectable shifting characteristic for special-driving programs (column 2, lines 39-48). It would have been obvious to one of ordinary skill in the art, at the time of invention, to include the special driving programs of Graf in the system taught by Fisher, in order to better control the system in accordance with the driver's wishes.

5. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krisher in view of Fujimoto et al. (US005214707A).

a. As per claim 29, Krisher teaches the invention as explained in the rejection of claim 27. Krisher does not teach that the system is available exclusively to the driver. Fujimoto teaches a control system using speech recognition that includes discriminating whether a command comes from a driver's seat to judge the validity of the action (column 2, lines 1-19). Furthermore, Fujimoto teaches that it is desirable to discriminate between the driver and passenger when determining the validity of the command because the driver may not want the actions taken that are spoken by other passengers (column 1, lines 45-47). It would have been obvious to one of ordinary skill in the art, at the time of invention, to discriminate between a command from a driver and passenger to determine the validity of the action in the system of Krisher, in order to ensure that the driver has complete control over the vehicle, as taught by Fujimoto.

***Allowable Subject Matter***

6. Claims 22 and 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

a. As per claims 22 and 24-26, Krisher does teach a voice command for operating a transmission, however, the system is only designed to affect the shifting characteristics of the transmission. While many prior art transmission control systems may teach the limitations of the present claims, there is no reasonable suggestion that those systems should be operated via the voice command as is claimed in the present invention.

***Response to Arguments***

7. Applicant's arguments with respect to claims 21-30 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within


TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action:

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M Gibson whose telephone number is (703) 306-4545. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (703) 308-3873. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

EMG

  
WILLIAM A. CUCHLINSKI, JR.  
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